1505.

SUPREME COURT OF THE UNITED STATES.

No. 146.

JOHN MASON, PLAINTIFF IN ERROR,

vs.

JOSEPH N. FEARSON, DEFENDANT IN ERROR.

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J. & G. S. Gideon, printers.

UNITED STATES OF AMERICA:

The President of the United States, to the judges of the circuit court of the District of Columbia, sitting for the county of Washington, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea, which is in the said court, before you, or some of you, wherein John Mason is plaintiff, and Joseph N. Fearson is defendant, a manifest error hath happened, to the great damage of the said plaintiff, as by his complaint appears; we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that under your hand, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday in December next, in said Supreme Court to be then and there held; and that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, which of right, and according to the laws and customs of the United States, should be done.

Witness the Hon. Roger B. Taney, chief justice of said Supreme Court.

Issued this third day of November, 1846.

WM. BRENT, *Cl'k.*

DISTRICT OF COLUMBIA, *to wit:*

The United States of America, to Joseph N. Fearson, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, pursuant to a writ of error filed in the clerk's office of the circuit court of the District of Columbia for the county of Washington, wherein John Mason is plaintiff in error, and you are defendant in error, to show cause, if any there be, why judgment rendered against the said John Mason, in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness the Hon. W. Cranch, chief judge of the circuit court of the District of Columbia, this third day of November, 1846.

W. CRANCH.

Served by reading a copy of the above to Joseph N. Fearson.

A. HUNTER, *Marshal.*

Know all men by these presents, that we, John Mason, Samuel Cooper, and Maynadier Mason, of Washington county, in the District of Columbia, are held and firmly bound unto Joseph N. Fearson in the full and just sum of three hundred dollars, current money of the

United States; to which payment, well and truly to be made and done, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this 1st day of November, 1846.

Whereas lately, at a circuit court of the District of Columbia, sitting for the county of Washington, in a suit pending in the said court, wherein the said John Mason was plaintiff, and the said Joseph N. Fearson was defendant, judgment was rendered against the said plaintiff, and he having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court, to reverse the judgment in the aforesaid suit, and a citation, directed to the said Joseph N. Fearson, citing and admonishing him to be and appear at a Supreme Court of the United States, to be holden at the city of Washington, on the

Now the condition of the above obligation is such, that if the said John Mason shall prosecute his writ with effect, and answer all damages and costs, if he fails to make his plea good, then the above obligation to be null and void, otherwise to be and remain in full force and virtue in law.

J. MASON, [SEAL.]
S. COOPER, [SEAL.]
MAY. MASON. [SEAL.]

Signed, sealed, and delivered in the presence of—
HENRY STANTON.

Approved. W. CRANCH.

Style of court.

DISTRICT OF COLUMBIA, *to wit:*

At a circuit court of the District of Columbia, begun and held in and for the county of Washington, at the city of Washington, on the fourth Monday of March, being the twenty-third day of the same month, in the year of our Lord one thousand eight hundred and forty-six, and of the independence of the United States the seventieth.

Present—The Hon. William Cranch, chief judge; Hon. James S. Morsell, and Hon. James Dunlop, assistant judges; Alexander Hunter, esquire, marshal; William Brent, clerk.

In the record of the proceedings of the said court, among others are the following, to wit:

Parties.

JOHN MASON,
vs.
JOSEPH N. FEARSON.

Be it remembered, that heretofore, to wit, on the twenty-third day of January, A. D. 1845, Richard Roe, lessee of John Mason, declared in the said circuit court here, against John Doe, in a plea of trespass and ejectment, with a notice thereto annexed in manner and form following, to wit:

Nar.

WASHINGTON COUNTY, *District of Columbia, to wit:*

John Doe, late of the county aforesaid, was attached to answer unto Richard Roe in a plea, wherefore, with force and arms, at the county aforesaid, he entered into all those lots, pieces, and parcels of ground, called lots five, six, and twenty-eight, in square twenty-eight; lots two, ten, fourteen, and fifteen, in square thirty-one; lot six, in square thirty-seven; lot one, in square forty-two; lot eight, in square forty-four, and lot two, in square fifty-five, all in Washington city, in the District of Columbia, to wit, in the county aforesaid, with the appurtenances, which John Mason demised to the said Richard for a term of years which is not yet expired, and *sub*jected him from his said land and premises, and other wrongs to the said Richard then and there did, to the great damage of the said Richard, and against the peace, dignity, and government of the United States of America; and also, wherefore, with force and arms, &c., at the county aforesaid, he entered into all those lots, pieces, and parcels of ground, called lot five, six, and twenty-eight, in square twenty-eight; lots two, ten, fourteen, and fifteen, in square thirty-one; lot six, in square thirty-seven; lot one, in square forty-two; lot eight, in square forty-four, and lot two, in square fifty-five, all in Washington city, and District of Columbia, to wit, in the county aforesaid, with the appurtenances, which James S. Morsell demised to the said Richard for a term of years which is not yet expired, and ejected him from his said land and premises, and other wrongs to the said Richard then and there did, to the great damage of the said Richard; and whereupon the said Richard, by John Marbury, his attorney, complains that the said John Mason, heretofore, to wit, on the first day of January, in the year eighteen hundred and forty-five, at the county aforesaid, had demised to the said Richard all *all* those lots and parcels of land called lots five, six, and twenty-eight, in square twenty-eight; lots two, ten, fourteen, and fifteen, in square thirty-one; lot six, in square thirty-seven; lot one, in square forty-two; lot eight, in square forty-four, and lot two, in square fifty-five, with the appurtenances, all lying and being in Washington city, in the District of Columbia, to wit, in the county aforesaid, to have and to hold the same to the said Richard, and his assigns, from the thirty-first day of December then next passed, for the term of ten years from then next ensuing, and fully to be complete and ended; and also that the said James S. Morsell, heretofore, to wit, on the first day of January, in the year eighteen hundred thirty-five, at the county aforesaid, had demised to the said Richard all those lots and parcels of land called lots five, six, and twenty-eight, in square twenty-eight; lots two, ten, fourteen, and fifteen, in square thirty-one; lot six, in square thirty-seven; lot one, in square forty-two; lot eight, in square forty-four, and lot two, in square fifty-five, with the appurtenances, all lying and being in Washington city, in the District of Columbia, to wit, in the county aforesaid, to have and to hold the same to the said Richard, and his assigns, from the thirty-first of December then next passed, for the term of twenty years next ensuing, and fully to be completed and

ended; by virtue of which said several demises the said Richard entered into all and singular the premises aforesaid, with the appurtenances thereto belonging, and was thereof possessed; and the said Richard being so thereof possessed, the said John Doe, afterwards, to wit, on the first day of January, in the year eighteen hundred forty-five, with force and arms, that is to say, with swords, staves, and knives, at the county aforesaid, entered into the said several premises with the appurtenances, which the said John Mason and James S. Morsell demised to the said Richard in manner aforesaid, for the term aforesaid, which are not yet expired, and him, the said Richard, from the premises aforesaid ejected, and other wrongs to him, the said Richard, then and there did, to the great damage of the said Richard, and against the peace, government, and dignity of the United States of America, &c.; whereby the said Richard says he is prejudiced and hath damage to the value of ten dollars, and therefore he brings suit.

MARBURY, *for the plaintiff*.

To JOSEPH N. FEARSON, ESQUIRE,

Tenant in possession of the premises, or of some part thereof.

SIR: I am informed that you are in possession of, or claim title to, the premises in this declaration mentioned, or to some part thereof, and being sued in this action as a casual ejector, and having no claim or title to the said premises, do advise you to appear in the circuit court of the District of Columbia on the fourth Monday of March next, in the year 1845, by some attorney of that court, and then and there, by rule of the said court, to cause yourself to be made defendant in my stead; otherwise I shall suffer judgment to go by default, and you will be turned out of possession. I am, yours, JOHN DOE.

Rule plea.

Whereupon the said lessee, by his attorney aforesaid, prays that the said John Doe, the defendant, the said Joseph N. Fearson, the tenant in possession of the premises aforesaid, or those under whom he claims, to his declaration aforesaid may appear. Thereupon Joseph N. Fearson, the tenant in possession, comes here into court, by Wm. Redin, esq'r, his attorney; whereupon it [is] ruled by the court here, with the consent of the said Rich'd Roe, lessee as aforesaid, by his attorney aforesaid, and the said Jos. N. Fearson, (who claims the title in question,) by his attorney aforesaid, that the said Joseph N. Fearson be admitted defendant in the place of John Doe, the casual ejector; and at the trial thereon to be had the said Joseph N. Fearson shall appear in his proper person, or by his attorney, and confess lease, entry, and actual ouster, and expulsion of so much of the lands in the declaration of the said Richard Roe, lessee as aforesaid, as is in the possession of the said Joseph N. Fearson, or his tenants, or of any other person claiming by or under his title, or in default thereof, that judgment be entered against the now defendant, John Doe, the casual ejector; but that prosecution be staid against him until he makes default in any of the premises. And it is further ruled by the court here, with consent of

Nar.

WASHINGTON COUNTY, *District of Columbia, to wit:*

John Doe, late of the county aforesaid, was attached to answer unto Richard Roe in a plea, wherefore, with force and arms, at the county aforesaid, he entered into all those lots, pieces, and parcels of ground, called lots five, six, and twenty-eight, in square twenty-eight; lots two, ten, fourteen, and fifteen, in square thirty-one; lot six, in square thirty-seven; lot one, in square forty-two; lot eight, in square forty-four, and lot two, in square fifty-five, all in Washington city, in the District of Columbia, to wit, in the county aforesaid, with the appurtenances, which John Mason demised to the said Richard for a term of years which is not yet expired, and *sub*jected him from his said land and premises, and other wrongs to the said Richard then and there did, to the great damage of the said Richard, and against the peace, dignity, and government of the United States of America; and also, wherefore, with force and arms, &c., at the county aforesaid, he entered into all those lots, pieces, and parcels of ground, called lot five, six, and twenty-eight, in square twenty-eight; lots two, ten, fourteen, and fifteen, in square thirty-one; lot six, in square thirty-seven; lot one, in square forty-two; lot eight, in square forty-four, and lot two, in square fifty-five, all in Washington city, and District of Columbia, to wit, in the county aforesaid, with the appurtenances, which James S. Morsell demised to the said Richard for a term of years which is not yet expired, and ejected him from his said land and premises, and other wrongs to the said Richard then and there did, to the great damage of the said Richard; and whereupon the said Richard, by John Marbury, his attorney, complains that the said John Mason, heretofore, to wit, on the first day of January, in the year eighteen hundred and forty-five, at the county aforesaid, had demised to the said Richard all *all* those lots and parcels of land called lots five, six, and twenty-eight, in square twenty-eight; lots two, ten, fourteen, and fifteen, in square thirty-one; lot six, in square thirty-seven; lot one, in square forty-two; lot eight, in square forty-four, and lot two, in square fifty-five, with the appurtenances, all lying and being in Washington city, in the District of Columbia, to wit, in the county aforesaid, to have and to hold the same to the said Richard, and his assigns, from the thirty-first day of December then next passed, for the term of ten years from then next ensuing, and fully to be complete and ended; and also that the said James S. Morsell, heretofore, to wit, on the first day of January, in the year eighteen hundred thirty-five, at the county aforesaid, had demised to the said Richard all those lots and parcels of land called lots five, six, and twenty-eight, in square twenty-eight; lots two, ten, fourteen, and fifteen, in square thirty-one; lot six, in square thirty-seven; lot one, in square forty-two; lot eight, in square forty-four, and lot two, in square fifty-five, with the appurtenances, all lying and being in Washington city, in the District of Columbia, to wit, in the county aforesaid, to have and to hold the same to the said Richard, and his assigns, from the thirty-first of December then next passed, for the term of twenty years next ensuing, and fully to be completed and

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MARBURY, *for the plaintiff*.

To JOSEPH N. FEARSON, ESQUIRE,

Tenant in possession of the premises, or of some part thereof.

SIR: I am informed that you are in possession of, or claim title to, the premises in this declaration mentioned, or to some part thereof, and being sued in this action as a casual ejector, and having no claim or title to the said premises, do advise you to appear in the circuit court of the District of Columbia on the fourth Monday of March next, in the year 1845, by some attorney of that court, and then and there, by rule of the said court, to cause yourself to be made defendant in my stead; otherwise I shall suffer judgment to go by default, and you will be turned out of possession. I am, yours, JOHN DOE.

Rule plea.

Whereupon the said lessee, by his attorney aforesaid, prays that the said John Doe, the defendant, the said Joseph N. Fearson, the tenant in possession of the premises aforesaid, or those under whom he claims, to his declaration aforesaid may appear. Thereupon Joseph N. Fearson, the tenant in possession, comes here into court, by Wm. Redin, esq'r, his attorney; whereupon it [is] ruled by the court here, with the consent of the said Rich'd Roe, lessee as aforesaid, by his attorney aforesaid, and the said Jos. N. Fearson, (who claims the title in question,) by his attorney aforesaid, that the said Joseph N. Fearson be admitted defendant in the place of John Doe, the casual ejector; and at the trial thereon to be had the said Joseph N. Fearson shall appear in his proper person, or by his attorney, and confess lease, entry, and actual ouster, and expulsion of so much of the lands in the declaration of the said Richard Roe, lessee as aforesaid, as is in the possession of the said Joseph N. Fearson, or his tenants, or of any other person claiming by or under his title, or in default thereof, that judgment be entered against the now defendant, John Doe, the casual ejector; but that prosecution be staid against him until he makes default in any of the premises. And it is further ruled by the court here, with consent of

the counsel, that if, by reason of such default, the said Richard Roe, lessee as aforesaid, shall become non-suit at the trial, the said Joseph N. Fearson shall take no advantage thereof, but shall pay to the said Richard Roe, lessee as aforesaid, his costs, &c.

And it is further ruled by the court here, that if, upon the trial of the said issue, a verdict shall be given for the said Joseph N. Fearson, or if the said Richard Roe, lessee as aforesaid, shall not prosecute his declaration upon any other cause than for the not confessing lease, entry, and ouster, as aforesaid, then the said John Mason, lessor of the aforesaid Richard Roe, shall pay costs, &c.

Defence on title—not guilty.

And thereupon the said Joseph N. Fearson, by his attorney aforesaid, defends the force and injury, when, &c., and takes his defence of and upon the premises in question upon his title thereto, and says that he is not guilty of the trespass and ejectment in the said declaration mentioned, in manner and form as the said Richard Roe, lessee as aforesaid, above complains; and of this he puts himself upon the country.

Issue joined, and venire facias.

And the said Richard Roe, lessee as aforesaid, in like manner, and so forth; therefore, let a jury thereon appear before the court here, on the third Monday of October next, by whom, &c., and who neither, &c., to recognise, &c., because as well, &c., and the same day is given to the said parties then and there, &c. At which said third Monday of October, in the year of our Lord one thousand eight hundred and forty-five, comes again into the said circuit court here, as well the said Richard Roe, lessee as aforesaid, by his attorney aforesaid, as the said Joseph N. Fearson, the tenant in possession, by his attorney aforesaid; thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties, and their attorneys aforesaid, and by order of the court here thereon, is continued until the fourth Monday of March next.

Verdict for defendant on case stated.

And now at this day, to wit, the said fourth Monday of March, in the year of our Lord one thousand eight hundred and forty-six, comes again into the circuit court here, as well the said Richard Roe, lessee as aforesaid, by his attorney aforesaid, as the said Joseph N. Fearson, by his attorney aforesaid; thereupon the following statement of facts were received by consent of the parties aforesaid, by their attorneys aforesaid, and by order of court as a special verdict, subject to the opinion of the court as to the law upon the facts.

Statement.

The plaintiff, to support the issue on his part, made out a title in one Benjamin Stoddert, in all the lots in the declaration mentioned, except lot No. 8, in square No. 44, under the commissioners of the city of Washington, or the superintendent of the public buildings in said city, and proved that lot No. 8, in square No. 44, was allotted to Robert Morris and John Nicholson, original proprietors of the ground on which

the said square was laid out, in the distribution of the lots in said square between the public and the proprietors, and then made out a title in the said Benjamin Stoddert, under the said Morris and Nicholson, to the said lot No. 8, in square No. 44. It was thereupon agreed that Benjamin Stoddert was, prior to the 18th day of April, in the year 1805, seized in fee of all the lots in the said declaration mentioned. The plaintiff further, to support the issue on his part, offered to read, and read in evidence to the jury, a deed of conveyance of each of the said lots from the said Benjamin Stoddert, bearing date the 18th day of April, in the year 1805, to David Peter and James S. Morsell, and to the survivor of them, and the heirs of such survivor, in the words and figures following, to wit, (copied in page 20,) also the printed articles of association mentioned and referred to in the said deed, (copied in page 49.) The plaintiff also offered to read, and read in evidence to the jury, the bill of complaint, answers, and decree, in a certain cause on the chancery side of the said circuit court for the county aforesaid, in which Henry Alexander and Mary Air were complainants, and James S. Morsell and Joseph Forrest, and others, were defendants; also the report of the proceedings of James S. Morsell, the trustee appointed by the decree of said court, in the said cause, and of the sales made by him in virtue of such decree, and the orders of the said court ratifying the said sales, and a deed from the said trustee to the plaintiff's lessor, the said John Mason, for the said lots in the said declaration mentioned, bearing date the 13th day of November, in the year eighteen hundred forty-four, (copied in pages 32 to 57.) The plaintiff also read in evidence to the jury two receipts signed W. W. Billing, collector, marked B and C, one for taxes for the years 1826 and 1827, the other for taxes for the year 1832, on sundry lots therein mentioned, assessed to the Washington Tontine Co., (copied in page 61 and 62.) The plaintiff there rested.

Whereupon the defendant, to support the issue on his part, produced, and read in evidence to the jury, the official assessment books of the corporation of the city of Washington, for the years 1836 and 1837, and proved that the lots in the said declaration mentioned, with divers other lots in the said city, amounting to twenty in number, were assessed for the said years to the Washington Tontine Company, "that the said lots, and many others in the said city, had been so assessed in the books of the said corporation to the Washington Tontine Company," from the years 1808 down to 1840 inclusive. The defendants also produced and read in evidence the tax books of the said corporation for the years 1836 and 1837, and proved thereby that the lots in the said declaration mentioned, and sundry other lots assessed to the Washington Tontine Company, appeared arranged in columns in the established and accustomed forms, exhibiting the manner in which said lots were assessed for those years, the numbers of the lots and squares, the rate of assessment, valuation of the lots severally, the valuation of the improvements, and the amount of tax on each lot; that the lots, so assessed to the Washington Tontine Company, were entered in the said

tax-books for the years 1836 and 1837, in the following manner, (copied in pages 63 .)

The defendant further proved, that the tax on the said lots, so assessed to the Washington Tontine Company, for the year 1836, fell due and was payable on the 1st day of January, in the year 1837, and the tax on the same lot for the year 1837 fell due and was payable on the 1st day of January, 1838; and that on the 1st day of January, in the year 1838, there were two years taxes due and in arrear on the said lots in the said declaration mentioned, and on the others so assessed to the said Washington Tontine Company. It is further proved, on the part of the defendant, that the collector of taxes imposed by the said corporation, and who was authorized to advertise and sell the property, liable to be sold in the said city for taxes, on the 15th day of September, in the year 1838, the taxes on the said lots, for the year 1836 and 1837, being in arrear and unpaid, caused to be inserted in the National Intelligencer, a newspaper published in the said city, the following advertisement, (copied in page 64;) and that the said advertisement appeared in the said newspaper once in each week for twelve successive weeks before the day appointed therein for the sale of the said lots; that the said advertisement was erroneous, in that it stated that three years taxes were in arrear and unpaid on the said lots, the fact being that the tax on the said lots for the year 1835 had been paid to the corporation before the said advertisement appeared; that such error was detected before the sale, and the lots were in fact sold for the taxes due and in arrear for the years 1836 and 1837; that in pursuance of his authority, and according to the tenor of the said advertisement, the said collector, on the 8th day of December, in the year 1838, set up at public sale, in the Aldermen's room, in the City Hall, in said city, in the presence of about sixty persons, the said lots so advertised and assessed to the Washington Tontine Company; and the said lots, being all the lots so assessed to said Washington Tontine Company, were severally sold, each for its own tax, and the said sales were reported, and entered on the official sales book of the said corporation, in manner and form following, (copied in page 65,) which shews the number of the lots and squares, to whom the same were assessed, the names of the purchasers, the amount of tax due on each lot, the expenses of sale, and the amount for which each lot sold; it was also proved by the said collector, and is admitted, that the said lots were sold in the order in which they appear set down in the said advertisement and report of sales.

It was further proved by the defendant that the said defendant paid the taxes and expenses on each lot purchased by him at said sale; and that on the 19th day of May, in the year 1841, the said defendant paid the residue of the purchase money for the said lots bought by him, with interest thereon, at the rate of 10 per cent. from the 8th day of December, in the year 1840, to the said 19th day of May, 1841, and no more, and received a deed for the said lots from the mayor of the said city of Washington on the first day of June, in the same year, duly executed and acknowledged, and afterwards recorded, which was given in evi-

dence to the jury, and in the words and figures following, to wit, (copied in page 66.) It was further admitted, that the said John Mason, the plaintiff lessor, was one of the original subscribers and members of the said Washington Tontine Company, from the commencement of its organization to its dissolution, and received his share of the assets thereof; and that certificates of stock in said company were issued by said company to the original shareholders, in the words and figures following, to wit, (copied in page 70.) And that the said John Mason, the plaintiff lessor, held such certificate for the shares of stock in the said company owned by him.

Whereupon, the said facts having been so proved and agreed, and reduced to writing, it was agreed by the counsel for the plaintiffs and the defendant, that a verdict should be entered for the defendant, subject to the *to the* opinion of the court on the facts and evidence so proved, agreed, and stated, as well on the part of the plaintiff as of the defendant; and that if the court should be of opinion, from the facts and evidence so proved, agreed, and stated, on both sides, that the sale of the lots mentioned in the declaration so made as aforesaid, by the authority of the Corporation of Washington city, was a legal and valid sale, and that the defendant thereby acquired a legal title to the said lots, that the said verdict should be entered for the defendant; but if the court should be of opinion that the said sale was not a legal and valid sale, and that the legal title to the said lots did not thereby pass to the defendant, that the verdict shall be entered, and judgment thereon be recorded for the plaintiff. Either party to have a right of appeal to the Supreme Court of the United States upon the above statement of facts and evidence, so proved and agreed, and the judgment of the court thereon.

JOHN MARBURY, *Pltff's Attorney.*
W. REDIN, *Defendant's Attorney.*

Deed from Benjamin Stoddert to David Peter and James S. Morsell, referred to in the foregoing statement of evidence, at page

Stoddart to Peter and Morsell.

The following deed was recorded 12th May, 1805:

Benjamin Stoddert to David Peter and James S. Morsell.

Whereas sundry proprietors of lots in the city of Washington have engaged a certain number of those lots to form the basis or capital of an institution, called the "Washington Tontine," amounting in the whole to two million six hundred and thirty-two thousand and seventy and nine square feet of ground, situate in, and making part of, the said city of Washington, which property is rated and valued at one hundred and forty thousand dollars. The plan or articles upon which the said Tontine is established, together with a list of the lots thereunto belonging, are deposited in the clerk's office for the county of Washington, in the District of Columbia, for safe keeping and for record; and a printed copy of the plan or articles, upon which the said Tontine is established, is also annexed to these presents, and hereby referred to, as making and constituting a part of this indenture, and as declaring, showing, setting

forth, and directing the trusts and confidence upon which this indenture is made; and Benjamin Stoddert, of Georgetown, is one of those persons who has bound himself to furnish lots for the purposes aforesaid. Now, this indenture, made this eighteenth day of April, in the year one thousand eight hundred and five, between the said Benjamin Stoddert, of Georgetown, in the District of Columbia, of the one part, and David Peter of the city of Washington, and James S. Morsell of Georgetown, both of the District of Columbia, of the other part, witnesseth: That the said Benjamin Stoddert, for and in consideration of the trusts and confidence declared and reposed in and by the printed articles of the Washington Tontine, to these presents annexed, and hereby now again referred to as a part of this indenture, and also for and in consideration of the sum of one dollar, to him in hand paid by the said David Peter and James S. Morsell, the receipt whereof is hereby acknowledged, hath given, granted, bargained and sold, and by these presents doth give, grant, bargain and sell, unto the said David Peter and James S. Morsell, and to the survivor of them, and to the heirs of such survivor, in trust, for the purposes aforesaid, all and singular the squares and lots, parts of squares and parts of lots, of ground hereinafter particularly described, situate, lying, and being in the said city of Washington, and District of Columbia, and known and distinguished in the general plan of the said city, as follows, that is to say: Lots number one, two, in square numbered forty-seven; lots numbered five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, in square numbered sixty-eight; lots numbered three, four, five, fifteen, in square numbered two hundred and forty-seven; lots numbered three, four, in square numbered four hundred and four; lots number seven, ten, eleven, in square numbered four hundred and twenty-seven; lots number two, three, four, five, six, in square numbered four hundred and twenty-eight; lots number eight, nine, ten, eleven, twelve, thirteen, fourteen, in square numbered four hundred and fifty-three; lots number eighteen, nineteen, twenty-one, twenty-two, twenty-three, twenty-four, in square numbered four hundred and fifty-four; lots number two, six, eight, in square numbered five hundred and eighteen; lot number twenty-four, in square numbered five hundred and sixty-nine; lot numbered two, in square numbered six hundred and twenty-nine; lots number one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, in square numbered five hundred and twenty-nine; lots number seven, eight, twelve, thirteen, fourteen, fifteen, sixteen, in square numbered five hundred and thirty-four; lots numbered one, two, three, four, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, in square numbered five hundred and thirty-eight; lots numbered one, two, three, four, five, six, seven, eight, in square numbered five hundred and sixty-five; lots numbered one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty,

twenty-one, in square numbered five hundred and sixty-seven; lots numbered one, two, three, four, five, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, in square numbered five hundred and sixty-eight; lot number six, in square numbered five hundred and seventy; lots number seven and eight, in square numbered six; lots numbered one and three, in square numbered seven; lots numbered three, twelve, thirteen, fourteen, fifteen, and sixteen, in square numbered seventeen; lots numbered one, two, three, in square numbered twenty-nine; lots numbered one, two, and six, in square numbered thirty; lots numbered one, two, eight, ten, fourteen, fifteen, in square thirty-one; lots three, four, five, six, and seven, in square numbered thirty-seven; lots numbered three, four, five, fourteen, fifteen, and sixteen, in square forty-one; lots numbered one, two, eight, nine, ten, eleven, twelve, thirteen, and fourteen, in square numbered forty-two; lots numbered three, four, five, in square numbered forty-three; lots numbered one, two, seven, eleven, twelve, thirteen, fourteen, fifteen, sixteen, in square numbered fifty-five; lots numbered one, two, twelve, in square numbered fifty-six; lots numbered five and six, in square numbered fifty-seven; lots numbered four, five, and seven, in square numbered sixty-one; lots numbered five and ten, in square numbered sixty-two; lots numbered six, eight, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, twenty-five, in square numbered seventy-seven; lots numbered fifteen, sixteen, and twenty-eight, in square numbered seventy-eight; lots numbered thirteen, fourteen, fifteen, and sixteen, in square numbered seventy-nine; lots numbered three, four, and twelve, in square numbered eighty; lots numbered one and two, in square numbered eighty-one; lots numbered fourteen, fifteen, and twenty, in square numbered eighty-six; lot number seven, in square eighty-four; lots number ten, eleven, in square eighty-eight; lot numbered thirteen, in square east of eighty-eight; lots numbered seven, eight, nine, in square numbered one hundred and two; whole of square numbered one hundred and twenty-five; lots numbered eighteen, nineteen, and twenty, in square numbered one hundred and forty-one; lot number six, in square numbered one hundred and forty-four; lots numbered three, four, seven, eight, ten, eleven, in square numbered one hundred and seventy-two; lots numbered two, four, twenty-six, in square numbered five; lots numbered three and twelve, in square numbered twelve; lots numbered six, seven, eight, in square numbered eighty-one; lots numbered fifteen, sixteen, seventeen, eighteen, and nineteen, in square numbered one hundred and twenty-six; lots numbered five, six, and twenty-eight, in square numbered twenty-eight; lots numbered one, two, four, five, six, seven, seventeen, and eighteen, in square numbered eight. Also all the land in front of the breadth of lot numbered one, two, three, four, five, six, seven, seventeen, and eighteen, in square number eight, from Twenty-seventh street, in the said city, to the river Potomack; making one-half part of what has been considered square numbered three, with all and singular

the advantages of wharfing on the same, into the river Potomack, and with all other advantages and appurtenances to the same belonging. Lot number six, in square numbered three hundred and twenty-two; lot numbered four, in square numbered two hundred and fifty-six; lots numbered six and seven, in square numbered two hundred and fifty-five; lot numbered six, in square numbered one hundred and nineteen; lot number two, in square numbered two hundred; lots numbered two, three, six, seven, eight, in square numbered forty-four; lot numbered fourteen, in square numbered one hundred and sixty-six; lot numbered fifteen, in square numbered one hundred and five; lot numbered two, in square numbered two hundred and twenty-six; lot numbered five, in square numbered three hundred and twenty-two; lot numbered five, in square numbered three hundred and twenty-one; lots numbered five, six, in square numbered *in square numbered* two hundred and ninety-three; lot number seven, in square numbered forty-two; lots numbered eight, nine, and ten, in square number fifty-five; lots number seven, in square numbered seventy-seven; lots number four and five, in square east of square number eighty-seven; lot number fifteen, in square eighty-eight; lot number five and six, in square south of square one hundred and four; lot number one, in square forty-eight; lots number six and nineteen, in square number seventy; lot number eight, in square number six hundred and thirty-one; lots number twelve, thirteen, fourteen, and seventeen, in square number four hundred and ninety; lot number seventeen, in square seven hundred and thirty-four; lot number one, in square number four hundred and fifty-seven; and lots number five, six, eight, nine, ten, eleven, twelve, in square nine hundred and fifty-one. And all that part of lot twenty-one, in square number eighty-one, beginning at the southeast corner of said lot on Twenty-first street west, and running west with the line of said lot, and lot number one, eighty feet nine inches, to a line of lot number two, and with the said line north thirty-one feet to the end thereof; thence east, eighty feet nine inches, to Twenty-first street west; thence south with said street to the beginning, containing two thousand five hundred and two square feet; and all that part of lot number one, in square number one *one* hundred and four, not leased, to Alexander; the said part herein meant to be conveyed containing seven thousand five hundred and sixty-eight square feet, together with all and singular the rights, members, privileges, advantages, and appurtenances to the said property, and to every or any part of it belonging, or in any wise appertaining.

To have and to hold the said squares and lots, parts of squares and parts of lots, of ground, with all and singular the rights, members, privileges, advantages, and appurtenances to the same, and to every and any part of the same belonging, or in any wise appertaining, to them, the said David Peter and James S. Morsell, and to the survivor of them, and to the heirs of such survivor; shall at all times forever hold, use, and apply the same to the uses, purposes, objects, and intents, expressed, set forth, and declared, in and by the printed plan or articles estab-

lishing the Washington Tontine, to these presents annexed, and here again referred to as a part of this indenture. And the said Benjamin Stoddert, for himself, his heirs, and executors, doth, by these presents, covenant to and with the said David Peter and James S. Morsell, their and each of their heirs and assigns, that now, at the time of the ensealing and delivery of these presents, he, the said Benjamin Stoddert, is seized of a good, sure, and indefeasible estate in fee simple of, in, and to all and singular the lands, tenements, hereditaments, and premises, with all and singular their appurtenances, by these presents conveyed, or expressed to be conveyed; that the same, and every part thereof, are and is free, clear, and exempt from all statutes, recognizances, judgments, mortgages, dowers, rights of dower, or other incumbrances, liens, whatsoever. And that he, the said Benjamin Stoddert, now hath full power and lawful authority to sell and convey the same, in the manner in which he hath expressed so to do in and by these presents; and the said Benjamin Stoddert doth, by these presents, for himself and his heirs, forever warrant and defend the said property herein and hereby conveyed, or expressed to be conveyed, and every part and parcel thereof, to them, the said David Peter and James S. Morsell, and their assigns, and to the survivor of them, the said David and James, and to the heirs and assigns of such survivor, against all and every person whatsoever; in trust, however, and upon the confidence hereinbefore expressed, and the said David Peter and James S. Morsell, for themselves, their heirs and executors, do by these presents covenant, to and with the said Benjamin Stoddert, his heirs and executors, that they, the said David and James, or the survivor of them, or the heirs of such survivor, as the case may require, will at all times forever hold, use, and apply the property in and by this indenture to them conveyed, and every part and parcel thereof, to the uses, purposes, objects, and intents expressed, set forth, and declared in and by the printed plan or articles establishing the Washington Tontine, to these presents annexed, and here again referred to as a part of this indenture; and that they or the survivor of them, or the heirs of such survivor as the case may require, will at all times, upon the reasonable request, and at the costs and charges of the directors of the said Washington Tontine, or a majority of them for the time being, make, execute, acknowledge, and deliver any deed, writing, or conveyance for transferring any or every part of the premises as by these presents conveyed to them, the said David and James, to such person, and for such and upon such terms as they, the said directors, or a majority of them, shall direct and require, whether the same be to convey parts of the said property by the said directors, or by a majority of them, sold and disposed of, or whether the same be to substitute other trustees in the place and stead of them, the said David Peter and James S. Morsell, or the survivor of them, or the heirs of such survivor; provided, however, that no deed or conveyance so to be demanded of them, the said David Peter and James S. Morsell, or the survivor of them, or the heirs of such survivor, is to contain any clause of warranty binding

them, the said David Peter, James Morsell, or their heirs or executors, or any of them.

In testimony whereof the said Benjamin Stoddert, David Peter, and James Morsell, have to these presents interchangeably set their hand and affixed their seals, the day and year first above written.

BEN. STODDERT, [SEAL.]
DAVID PETER, [SEAL.]
JAMES S. MORSELL. [SEAL.]

Signed, sealed, and delivered in the presence of—
JOHN OAKLEY,
THOS. CORCORAN.

UNITED STATES,
District of Columbia and county of Washington, to wit:

This day Benjamin Stoddert, David Peter, and James Morsell, the parties to the aforegoing indenture, personally appeared before us, the subscribers, two justices of the peace for the county aforesaid, and respectively acknowledged the aforegoing indenture to be their respective act and deed. Given under our hands, this eighteenth day of April, 1805.

JOHN OAKLEY.
THOS. CORCORAN.

Bill of complaint in case of Alexander & Air vs. *Morsell & Forrest.*

To the honorable the judges of the circuit court of the District of Columbia, for the county of Washington, as a court of equity, now sitting.

The bill of complaint of Henry Alexander and Mary Air, stockholders and subscribers of the Washington Tontine Company, in behalf of themselves and the other subscribers and stockholders of the said Company, (a list whereof, as far as it has been practicable to ascertain and make out the same, is hereto annexed,) who shall not come in and contribute to the expenses of this suit, against James Sewall Morsell, surviving trustee of the estate and funds of said company, humbly sheweth, that some time in the year 1805, and previous to the 1st day of January, in the year 1806, your orators and their associates, as aforesaid, by their subscription to certain articles of agreement formed themselves into a company called "the Washington Tontine Company," which said original articles and subscriptions are herewith exhibited, and marked (exhibit A,) which they pray may be taken as a part of this their bill.

And your orators further state, that, in pursuance of said articles, certain deeds were made, by proprietors of squares and lots in the city of Washington, to the said defendant and a certain David Peter, now deceased, and whom the said defendant hath survived, in trust for the uses and purposes therein set forth, and the titles of said proprietors were investigated and approved by John T. Mason and P. B. Key, as required by the first of said articles, and were thereupon delivered in due form, and recorded among the land records of Washington county aforesaid; a copy of one of the said deeds from Benjamin Stoddert

to the said Peter and Morsell, and extracts from the others, which correspond in all their parts and provisions with the one executed by said Stoddert, are herewith also filed and exhibited, (marked exhibit B,) which they pray may be also taken as a part of this their bill.

And your orators further shew, that, according to the provisions of the fourth of said articles, an election was held, as therein required, for directors to manage the affairs of said company; and regularly and duly thereafter, as required by said article, directors continued to be elected annually, who managed and superintended its affairs until the first Monday in January last, the period fixed upon by the 13th article for the dissolution of the said company.

And your orators further shew, that, upon the said first Monday of January last, according to the said articles, the company became dissolved, and, by the provision of the said 13th article, it was required that the whole stock of the company, in whatever consisting, should thereupon be divided among your orators and their associates, the owners of the then existing shares, and in proportion to the number held by each.

And your orators further [show,] that the stock of said company is found to consist in all the lots and squares of ground in the said city of Washington, contained in and conveyed by the said several deeds aforesaid, excepting the following, which had been heretofore sold under the authority and direction of the directors of the said company, agreeably to the provisions of the fifth of the said articles, and conveyed to the purchasers thereof, to wit: lots No. 10 and 11, in square No. 88; lots No. 19 and 20, in square No. 141; lot No. 5, in square No. 321; lot No. 1, in square No. 457; lot No. 18, in square No. 141; part of lot No. 13, in square No. 491; the following lots sold, but not yet conveyed, viz: all in square No. 3; lots No. 1, 2, 4, 5, 6, 7, 17, and 18, in square No. 8, upon which payment is still due in part, and also of the sum of three thousand three hundred dollars on deposite in bank, and a small sum besides, say about one hundred dollars, also in bank, to pay in part; the balance remaining on hand of the said purchase money, arising from said sales, taxes, and other necessary expenses, having been paid out of the said proceeds.

Your orators thus shew, that, according to the said 13th article, the said remaining lots and portions of ground, and the said balance of said proceeds of sales, were subject to be divided, as therein provided, among your orators and their said associates.

But such division, in consequence of the great number of shareholders, was obviously impracticable, and it was so evidently necessary that the said lots and portions of ground should be sold, and the proceeds divided among the shareholders, as the only possible way of making a fair and beneficial distribution of the stock of the said company, that at a large and public meeting of the stockholders *concerned* by due public notice, in the said city of Washington, on the 10th day of October last, it was unanimously determined that the necessary measures should be taken to effect this purpose.

Your orators therefore state and represent to your honors, that a division of the lots and portions of ground belonging to the company is impossible to be effected without vast expense, and that the portion which in such case would fall to each share would be so minute as to be wholly useless; and that there is no other way to make a fair and proper distribution of the said stock among the numerous owners thereof but by a sale; and it is impossible, from the great number and dispersed situations of your orators and their associates, to collect them together, or to have any contracts or instruments of writing executed by them, so as [to] authorize the sale and conveyance by the said trustee; and that the same can only be effectually accomplished by the aid of this honorable court, who can order and decree the said trustee to make sale of the said lots and portions of ground, and provide for the distribution and division, under the authority of this court, of the proceeds of such sale among the said stockholders, the articles of association aforesaid not having contemplated, and consequently not having provided for, such an emergency.

They therefore humbly pray your honors, to the end that the relief herein suggested may be obtained, and that a decree may be passed authorizing and directing sale to be made of the said lots and portions of ground, and the proceeds thereof, and of the other funds and moneys of said company, divided, under the order of your honors, among your orators and their associates according to equity, that subpœna may be issued, to the said defendant James S. Morsell directed, commanding him to be and appear before your honors, and that he may be required to make answer to all and singular the matters herein charged and set forth, and that as fully and particularly as if the same were here again repeated and he thereto particularly and distinctly interrogated.

And your orators further shew, that the directors of said company, in the course of their managing [and] superintending the affairs of said company, according to the provisions of said articles of agreement, did, on or about the day of A. D. 1805, and according to the provisions of the 12th of said articles, constitute and appoint Joseph Forrest as their agent, and *and* transfer to him the active duties of their trusts, as authorized by said article.

And they further state, that the said Forrest hath undertaken the said agency and trust, and in the execution thereof hath, with the consent and authority of said directors, made sales of certain of said lots and portions of ground, as before suggested, and received the purchase money therefor; and they therefore pray that the said Forrest may also be made a defendant hereto, and that he be required to make answer hereto, and to exhibit an account of his said agency and trust, shewing what sales have been made, what moneys received and paid, and on what accounts, and what remains on hand, and how vested or disposed of, and that he bring the same into this court, to be subject to such order of distribution, or otherwise, as your honors may see fit to pass in the premises.

And your orators, in behalf of themselves and their associates as

aforesaid, pray your honors to grant them such other and further relief in the premises as to your honors may seem right and according to equity.

JONES & KEY, *for Compl't.*

WASHINGTON COUNTY, *District of Columbia, sct.*

On this day of 1805, personally appeared before me, the subscriber, one of the U. S. justices of the peace in and for Washington county aforesaid, one of the within named complainants, and made oath in due form that the facts and allegations stated in the aforegoing bill, as of the knowledge of the complainants, are true as stated, and that those stated as of the knowledge of others he believes to be true. Sworn before—

Answer of J. S. M.

Bill of complaint, in the circuit court of the District of Columbia, for the county of Washington.

HENRY ALEXANDER and MARY AIR, on behalf of themselves, &c., comp'ts,
against
JAMES S. MORSELL and JOSEPH FORREST, def'ts.

The separate answer of James S. Morsell, one of the defendants, to the bill filed in this cause. This defendant, saving and reserving, &c., for answer thereto, says, that he believes the facts stated in the said bill to be true as therein stated; that he is willing to discharge the trust reposed in him, as stated in said bill, according to the true intent and meaning of said deed therein mentioned; he is content to submit to any decree which this honorable court may deem proper to render, consistently with the principles of equity and good conscience, and whereby the said defendant may be sufficiently protected, &c., &c.

JAMES S. MORSELL.

January 10, 1826.

J. Forrest's answer.

Bill of complaint, in the circuit court of the District of Columbia, for the county of Washington.

HENRY ALEXANDER and MARY AIR, on behalf of themselves, &c., compl'ts,
against
JAMES S. MORSELL and JOSEPH FORREST, defe'ts.

The separate answer of Joseph Forrest, one of the defendants to the bill filed in this cause. This defendant, saving and reserving, &c., for answer thereto says, that he believes the facts stated in the said bill to be true as therein stated; that he, the defendant, has the money therein mentioned on deposite in the Bank of Washington, and the obligations of Homes Goldsborough, and Warren, and Wood, for the balance of

purcha se money in his hands, as stated in exhibit marked F, which he hopes will be taken as part of his answer; but that the Tontine Company are indebted to him for twenty years services, and expenses incurred during that time on account of his agency, and also will be further liable to; that he is willing the court shall decree as prayed for by the bill of complaint, saving and reserving to this defendant the satisfaction for service, &c., as above stated, and will comply with such decree as the honorable court may deem proper, whereby his interest may be protected, &c.

JOSEPH FORREST.

January 11*th*, 1826.

Circuit court, District of Columbia, Washington county, December term, 1825. In chancery.

Decree.

HENRY ALEXANDER and MARY AIR,
against
JAMES S. MORSELL and JOSEPH FORREST, defendants.

This case coming on to be heard by consent on the bill, exhibits, and answers, and the same having been read and considered, and it appearing to the court that the prayer of the bill is reasonable and proper to be granted, and the same having been confessed by the answers, it is by the court, with consent of the parties, this 18th day of January, eighteen hundred and twenty-six, ordered, adjudged, and decreed, that the lots and premises mentioned and described in the said bill of complaint and exhibits be sold for the benefit of the complainants and others, as set forth in said bill and exhibits; and that James S. Morsell, mentioned as surviving trustee in said bill of complaint, be, and he is hereby, appointed trustee to sell the same, and the course and manner of his proceedings shall be as follows:

He shall first file with the clerk of this court a bond in the penal sum of ten thousand dollars, with two good securities, to be approved of by one of the judges of this court, conditioned for the faithful performance of the duties imposed upon him by this decree, and any and every other and further order or decree of this court in the premises. He shall then give sixty days notice of the time, place, and terms of sale, in some newspaper, published in the City of Washington, Baltimore, Philadelphia, and New York, and then proceed to sell the whole estate.

The sales shall be upon a credit of two, four, and six months, notes satisfactorily endorsed, payable in the District of Columbia; but where payment for lots purchased at the said sale is tendered by stockholders of the late Tontine Company, mentioned in the bill of complaint, who may become purchasers, the stock to which the said stockholder is entitled shall be received in payment at the actual value thereof, which actual value shall be ascertained immediately after the conclusion of the property hereby decreed to be sold, by taking from the gross amount thereof all costs and expenses to which the late Tontine Com-

pany are now, or shall become, liable; including in such deduction a reasonable compensation to be settled by the court to Joseph Forrest, and a commission to said trustee, for his trouble in the trust aforesaid; and showing, after said deductions, the nett amount which will be subject to distribution among the owners thereof, according to the true intent and meaning of certain articles of association of the Tontine Company aforesaid, now on file in this cause.

It is further ordered and decreed, that immediately after the sales and the receipt of the purchase money, where money and not stock is received by said trustee, he shall bring into this court the proceeds of sale, to be distributed among the stockholders by order of the court; and it shall be the duty of said trustee to make a full report to this court, on oath, of his proceedings under this decree, after the sales aforesaid.

It is further ordered, that after the expiration of six months from the time of sale, all moneys in the hands of the trustee shall be deposited in the Bank of the United States, to his credit as trustee, for the purpose of paying the dividends as demanded; and any sum which may remain on deposite one whole year without being demanded, shall be vested by said trustee in the stock of the United States, in the name of said trustee, for the use and benefit of the real proprietors of it.

By order of court and consent of parties.

January 18th, 1826.

WM. BRENT, *Clerk*.

Trustee's Report.

HENRY ALEXANDER and MARY AYR,
vs.
JAMES S. MORSELL and JOSEPH FORREST.

James S. Morsell, the trustee in this cause, submits his further report to the honorable the judges of the circuit court of the District of Columbia, sitting in the county of Washington, as a court of chancery:

That according to the decretal order of the court, Joseph Forrest, the former agent, delivered to the trustee a bond of Howes Goldsborough, for $1,920 57, with interest thereon, and one of Warren and Woods, for $792 52, also bearing interest, and paid in cash to him, $922 08; these were all the funds delivered over to him by said Joseph Forrest; that in further discharge of the trust reposed in him, he hath disposed of the funds which he hath been able to collect and apply, according to the following statement, in the payment of the first dividend of $20 75 a share, on 1,675 shares, $34,756 25, including the amount allowed by way of discount of those purchasers who owned stock of the Tontine Company, and who required the same to be discounted out of their purchase money; the vouchers and evidences to justify the payments so made by him, taken according to the decretal order in this case, he will be ready to produce as the court may direct, and in the payment of sundry claims for expenses chargeable against the funds of the trust, amounting to $1,765 13, the particulars whereof are herewith exhibited, and

prayed to be allowed; he hath also retained the sum allowed to him by said decree; that there now remains to his credit, as trustee, $14,351 11, in the Farmers and Mechanics' Bank of Georgetown, where he deposited the amounts collected by him; that of the 1,900 original shares, stated in the said decretal order as having been ascertained to be in esse, and of the 251 shares, the condition whereof is therein stated to be unascertained and uncertain, that is to say, whether extinguished and fallen into the common stock by the expiration of lives before the first Monday in January, 1825, or yet in esse, the respective shareholders and proprietors of the said 1,675 shares only have produced and established their titles, and claimed and received their dividends; that of the remaining 476 shares (a considerable part of which are ascertained and known to be in esse, but the greater part still uncertain,) the shareholders and proprietors have not established their respective titles to the same, nor claimed and received their dividends on the same, as required by the said decretal order, upon the terms and conditions therein provided, and the person or persons respectively entitled to the same, are not yet identified as ascertained to the satisfaction of your trustee; according to the said decretal order your trustee further states, that he hath continued down to the time of making this report to pay, as the shares were property produced according to the rules of said decretal order, that there are still uncollected debts to upwards of $1,500, exclusive of deficiency by re-sales, which he is using efforts to obtain, and which he hopes to get before long; he further states, that on account of the failure of John Green, Edward H. Calvert, and James B. Latimore, he was obliged to re-sell the lots respectively bought by them, which he did according to the terms of the first sale.

That at the said re-sales the said lots, which had been purchased by said Latimore, sold for a greater sum than the first purchase, as reported, by $188 93; those purchased by said Green sold for a less sum than the first purchase, as reported, by $898 31; and those purchased by Calvert sold for a less sum than the first purchase, as reported, by $741 59; there are errors, however, in the reported amounts of said first purchases as appears by the auctioneer's subsequent statement, in the two cases of Calvert and Latimore; in that of Calvert, the amount reported is $4,484 89—it should be $4,357 39; in that of Latimore, instead of $651 59—it should be $609 59; which corrections being made, the actual loss on the said re-sales (taking the three together,) will be $1,281 49; that, according to the terms declared and understood of the said first mentioned sales, said property was set up and re-sold at the risk and loss of said first purchasers, and that the said Calvert, Green, and Latimore have, respectively, by writings under their hands, and filed in this cause, approved of said re-sales, and requested the trustee to convey accordingly to the purchasers thereat; the trustee further reports, that he hath executed deeds to almost all the purchasers. In closing this report, your trustee further states, that the performance of the trust thus far has given him considerable labor and trouble; has required much of his time, great care and attention, and imposed on him the necessity of investiga-

ting every case; many of which, owing to the change of original parties by deaths and otherwise, have made the investigation difficult.

JAMES S. MORSELL.

DISTRICT OF COLUMBIA, *county of Washington, to wit:*

On this third day of November, in the year 1827, James S. Morsell personally appeared before me, the subscriber, a justice of the peace in and for the county aforesaid, and made oath on the Holy Evangely of Almighty God, that the statement of facts contained in the aforegoing report are true, as stated, to the best of his knowledge and belief.

Sworn to before—

JOHN COX, *Justice of Peace.*

Trustee's further report.

James S. Morsell, the trustee in this case, further reports, that he hath paid the first dividend on 191 shares of the said 476 shares, since the last order of this court in this case ($3943.25;) that he caused the said order to be duly published, as thereby required; that he hath paid for expenses of publishing $52.12½, and for arrears of taxes $313.59, as will appear by the accounts herewith exhibited; that there still remains to be collected, of moneys due to him as trustee aforesaid, about $400; that there is, at the date of this report, the sum of $11,730.33 standing to his credit, as the trustee aforesaid, in the Farmers and Mechanics' Bank of Georgetown.

JAMES S. MORSELL, *Trustee.*

6*th June*, 1828.

Articles of agreement.

Articles of agreement referred to in deed, page .

Article 1. The capital of the company shall be one hundred and forty thousand dollars, divided into shares of fifty dollars each, and the same shall be invested in two millions six hundred and thirty-two thousand and seventy-nine square feet of ground in the city of Washington, including privilege of alleys, to consist of the lots, a particular list of which is hereunto annexed, and which their owners have covenanted shall be conveyed by sufficient deed of general warrantee, and free from all incumbrances, unto David Peter and James Morsell, esqrs., of the District of Columbia, and to the survivor of them, and to the executors and administrators of such survivor, to be held by them in trust, until disposed of, as hereafter directed, for the use and benefit of the company. The titles of every proprietor are to be investigated and approved of by John T. Mason and P. B. Key, esqrs., before passing the deeds.

Article 2. Every subscriber may, at the time of subscribing, or at any time before the first day of January, in the year 1806, nominate a person or persons, with whose life or lives the shares taken by him shall be commensurate. And any person desirous of making provision beyond the reach of common accident, for persons of tender age, may subscribe in the names of such persons. Subscriptions may also be made by

proxy. But, until the nomination shall be made as aforesaid, the existence of the shares shall depend upon the lives of the persons in whose names they shall have been subscribed. All nominations on which the shares are to depend must include a description of the age and place of residence of the persons nominated; and nominations not made at the time of subscribing may be sent to the directors, who shall be first elected to manage the concerns of the company, any time before the first day of January as aforesaid.

Article 3. Upon the death of any person with whose life a share or shares shall thereupon be extinct, and all the interest of the owner thereof in the property of the company dependent upon such shares, shall cease and determine, and the same shall become the property of the owners of the surviving shares, meaning the shares dependent upon the lives of persons continuing to survive.

Article 4. The affairs of the company shall be managed under the superintendence and direction of five directors, who shall be stockholders, to be chosen in each year, by ballot, by the stockholders attending in person or by proxy, each to have as many votes as shares. The first election shall be held at Stelle's Hotel, in the city of Washington, on the first Monday in March, 1805, under the direction of Robert Brent, John P. Van Ness, David Peter, Walter S. Chandler, and John Davidson, esquires, or any two of them; and each succeeding election shall be held on the first Monday in every January thereafter, under the superintendence of at least two of the directors for the year preceding, at such place in the said city as they shall appoint, giving due notice thereof in one or more newspapers published in the city of Washington.

Article 5. The directors shall have full power to sell in fee simple, or to release on ground-rent, renewable forever, the property belonging to the company, and to manage all the other concerns of the company; but they shall not dispose of more than one-sixth part of the lots in any one year prior to the year 1810, nor sell the same at less than 25 per cent. advance on the original cost, nor shall they lease them at a less rate than 12 and a half cents per front foot for every cent cost to the company per square foot. But though the limits are thus fixed, below which the property cannot be disposed of, it is not meant that it is to be sold as fast as these rates can be obtained. On the contrary, the directors are at all times to exercise a sound discretion for the best interests of the company, and to keep in view the certainty of rise in the value of the property from the increasing population of the city.

[Article 6.] All money arising from the sales of lots shall be invested in the stock of the United States in the name of the company, the interest arising from which, as well as all money arising from ground rents, shall also be invested in like stock, until the last day of December in the year 1807, after which all interest arising from stock or sales of lots on time, and all moneys arising from ground rents, and all other profits, shall be divided semi-annually, on the 15th day of January and the 15th day of July in each year, among all the share-owners, in proportion to the interest of each, whose shares existed by the continuance of the

lives with which they were made commensurate on the first day of that year.

Article 7. The dividends shall be paid, at the office of the company in Washington, to the owners of the shares in person, to their power of attorney, or to their written order; but before any dividend shall be paid, satisfaction must be afforded, to the directors for the time being, that the person on whose life the shares in question depend was living on the first day of January in that year.

Article 8. In cases where the dividends are not claimed for 6 months after the same shall become due, and there is reason to doubt whether the person on whose life the shares depend on which such dividends arise continues to survive, the directors shall invest such dividends in stock of the United States, as if the same belonged to the capital of the company; but if the same shall thereafter be rightfully claimed, payment shall be made therefor out of any funds of the company not invested in stock.

Article 9. The shares shall be transferable, and all transfers shall be made on the books of the company, by the owners in person or by power of attorney, according to the form used for transferring stock of the United States; but, in cases where certificates have been issued by the directors to the owner of the shares, such certificate must be returned and cancelled, before a transfer of the shares expressed therein shall be made.

Article 10. Every record of a transfer of shares, and every certificate issued for shares, shall designate the lives on which such shares depend.

Article 11. No change can be made of the person or persons on whose life or lives the shares shall depend. The life first nominated must forever remain the life on which the existence of the shares shall depend.

Article 12. The directors shall cause proper books to be kept of all their proceedings, accessible at all times to the stockholders, and shall particularly cause to be carefully recorded the nomination of the lives on which the shares depend, and also the deaths of such persons, when the same shall be clearly ascertained, and may transfer from time to time the active duties of their trust to one of their own body, or to any other agent, and may make to such agent a reasonable compensation for his services; but the directors themselves shall receive no compensation, unless it be in the case of a director who may be the agent as aforesaid.

Article 13. On the first Monday in January, in the year 1825, the Washington Tontine Company shall be dissolved; and the whole stock of the company, in whatever consisting, shall thereupon be divided amongst all owners of the then existing shares, and in proportion to the number held by each.

Directors were elected on the 4th of March, according to the first article. John Mason, Robert Brent, Thomas Munroe, Richard H. Harrison, and Benjamin Stoddert are the directors for the present year.

WASHINGTON COUNTY,
District of Columbia, to wit:

On this thirteenth day of November, in the year eighteen hundred forty-four, personally appeared before the subscriber, chief judge of the circuit court of the District of Columbia, James S. Morsell, grantor, named in the aforegoing deed of indenture, and acknowledged the same to be his act and deed, and the land and premises therein mentioned to be the right and estate of John Mason, his heirs and assigns.

W. CRANCH.

Washington Tontine Co. to Washington Corporation.

DR.

To tax on real property for the year 1827 - - -						$22 59
Square No. 5,	lot 4,	value $82		Deduct for prompt pay-		
"	"	26	" 110	ment - - -		1 61
"	"	24	" 297			
"	17	13	" 145			20 98
"	"	14	" 123	Due for the year 1826 -		22 59
"	28	5	" 167			
"	"	6	" 125			43 57
"	"	28	" 415	Deduct tax on lots 2 & 3,		
"	31	2	" 476	in square 44, for 1826 -		1 45
"	"	10	" 193			
"	"	14	" 256	Advertising expenses, 20		42 12
"	"	15	" 203	lots, $1 20 each -		24 00
"	37	6	" 135			
"	42	1	" 229	Collectors' fees, 12½c. each		2 50
"	44	2	" 137			
"	"	3	" 122			68 62
"	"	8	" 109			
"	55	1	" 164	Deduct on advertising,		
"	"	2	" 106	charge 28c. on each lot -		3 60
"	"	15	" 187			
"	6	7	" 163			$65 02
"	"	8	" 90			
			$4,034			

Gen. MASON. *Collector of the 1st and 2d Wards.*

Received payment, April 11th, 1828, from Gen. John Mason, of the within bill.

W. W. BILLING, *Coll'r.*

Washington Tontine Co. to Washington Corporation.

DR.

To tax on the following real property for the year 1832 -						$46 30
Square	5,	lot	4,	value	$82	
"	"		24	"	370	
"	"		26	"	109	Tax on lots 2 and 3, square 44,
"	6		7	"	163	in the name of Bank U. S. 3 15
"	"		8	"	90	
"	17		13	"	105	$49 40
"	"		14	"	122	
"	28		5	"	167	
"	"		6	"	125	
"	"		28	"	415	
"	31		2	"	475	
"	"		10	"	192	
"	"		14	"	256	
"	"		15	"	202	
"	37		6	"	135	
"	42		1	"	228	
"	44		8	"	109	
"	55		1	"	246	
"	"		2	"	225	
"	"		15	"	353	
					$42 09	
Square	44,	lot	2,		1 37	
"	"		3,		1 22	

Received payment from Gen. John Mason, Jan. 9th, 1834.

W. W. BILLING,
Coll'r 1st and 2d Wards.

D.

Extract from the Tax books of the Corporation of the city of Washington for the years 1836 *and* 1837.

Owner's name and residence.	No. of square.	No. of lot.	Value of lot.	Tax due for 1836.	Tax due for 1837.
Washington Tontine Co.	5	4	$82	$0 61	$0 61
	–	24	296	2 22	2 22
	–	26	109	0 82	0 82
	6	7	163	1 23	1 23
	–	8	90	0 67	0 67
	17	13	96	0 72	0 72
	–	14	81	0 61	0 61
	28	5	111	0 84	0 84
	–	6	83	0 62	0 62
	–	28	311	2 34	2 34
	31	2	198	1 48	1 48
	–	10	96	0 72	0 72
	–	14	128	0 96	0 96
	–	15	101	0 76	0 76
	37	6	90	0 67	0 67
	42	1	137	1 02	1 02
	44	8	109	0 82	0 82
	55	1	123	0 92	0 92
	–	2	169	1 28	1 28
	–	15	230	1 73	1 73

Tax on the above valuation, $\frac{3}{4}$ of 1 per cent. for each year.

Extract from the collector's advertisement, as published in the National Intelligencer, of property to be sold for taxes.

City property to be sold for taxes.

On Saturday, the 8th day of December next, will be sold, by public auction, at the City Hall, in the city of Washington, the following described property, to satisfy the Corporation of said city for taxes due thereon up to the year 1837 inclusive, unless the said taxes be previously paid to the subscriber, with such expenses and fees as may have accrued at the time of payment.

No. of square.	No. of lot.	To whom assessed	Years for which taxes are due.			Taxes due on each lot.	Total taxes due in each person's name.
			1835.	1836.	1837.		
5	4	Washington Tontine Company.	$0 90	$0 61	$0 61	$2 12	
–	24	do	3 25	2 22	2 22	7 69	
–	26	do	1 19	0 82	0 82	2 83	
6	7	do	1 79	1 23	1 23	4 25	
–	8	do	0 99	0 67	0 67	2 33	
17	13	do	1 05	0 72	0 72	2 49	
–	14	do	0 89	0 61	0 61	2 11	
28	5	do	1 22	0 84	0 84	2 90	
–	6	do	0 91	0 62	0 62	2 15	
–	28	do	3 41	2 34	2 34	8 09	
31	2	do	2 17	1 48	1 48	5 13	
–	10	do	1 05	0 72	0 72	2 49	
–	14	do	1 40	0 96	0 96	3 32	
–	15	do	1 11	0 76	0 76	2 63	
37	6	do	0 99	0 67	0 67	2 33	
42	1	do	1 50	1 02	1 02	3 54	
44	8	do	1 19	0 82	0 82	2 83	
55	1	do	1 35	0 92	0 92	3 19	
–	2	do	1 85	1 28	1 28	4 41	
–	15	do	2 53	1 73	1 73	5 99	$97 40

Sale to commence at 10 o'clock, A. M. Terms, cash.

(Signed) A. ROTHWELL, *Collector*.

COLLECTOR'S OFFICE, CITY HALL, *Sept.* 15, 1838.

Extract from the report made by the Collector to the Register, of lots sold for Taxes, on the 8th day of December, 1838.

No. of square.	No of lot.	To whom assessed.	Amount of tax on each lot.	Expense on each lot.	To whom sold.	Amount sold for.	Amount received.
5	4	Washington Tontine Company.	$1 22	$0 94	Anthony Preston -	$35	$2 16
-	24	do	4 44	1 06	do -	50	5 50
-	26	do	1 64	0 95	T. W. Pairo - -	35	2 59
6	7	do	2 46	0 99	Wm. Easby - -	40	3 45
-	8	do	1 34	1 14	do - -	30	2 48
17	13	do	1 44	0 95	Anthony Preston -	66	2 39
-	14	do	1 22	0 94	G. C. Grammer -	35	2 16
28	5	do	1 68	0 95	J. N. Fearson - -	52	2 63
-	6	do	1 24	0 93	do - -	40	2 17
-	28	do	4 68	1 07	do - -	45	5 75
31	2	do	2 96	1 01	do - -	40	3 97
-	10	do	1 44	0 95	do - -	10	2 39
-	14	do	1 92	0 97	do - -	25	2 89
-	15	do	1 52	0 95	do - -	31	2 47
37	6	do	1 34	1 14	do - -	10	2 48
42	1	do	2 04	0 97	do - -	41	3 01
44	8	do	1 64	0 95	do - -	20	2 59
55	1	do	1 84	0 97	G. C. Grammer -	31	2 81
-	2	do	2 56	0 99	J. N. Fearson - -	22	3 55
-	15	do	3 46	1 03	A. Prest. - -	47	4 49

Deed.—Corporation of Washington to Joseph N. Fearson.

Recorded 12th July, 1841.

This indenture, made this first day of June, in the year of our Lord one thousand eight hundred and forty-one, between the Mayor, Board of Aldermen, and Board of Common Council of the city of Washington, of the first part, and Joseph N. Fearson of the second part; whereas the said Corporation, by virtue of the powers in them vested by their charter, have from time to time laid and imposed certain annual taxes on all the real and personal assessable property within the said city, agreeably to the several assessments thereof; and have by sundry acts, providing for the collection of such taxes, enacted, "That whenever two or more years' taxes on real property, whether improved or unimproved, in the city of Washington, shall remain due and unpaid, or whenever any special tax on any real property shall remain unpaid for two or more years, after the same shall have become due, it shall be the duty of the collector, in whose hands such taxes may be placed for collections, to sell such real property, or so much thereof, not less than a lot, (when the property on which the tax has accrued is not less than that quantity,) as may be necessary to pay any such taxes, with all legal costs and charges thereon, at public sale, to satisfy the said Corporation therefor," subject however to the terms, conditions, provisions, and restrictions as

1520

are in the said acts mentioned, first giving such notice of the time and place for the sale as said acts require; and whereas lots numbered five, six, and twenty-eight, in square number twenty-eight; lots two, ten, fourteen, and fifteen, in square number thirty-one; lot number six, in square number thirty-seven; lot number one, in square *in square* number forty-two; lot number eight, in square number forty-four; and lot number two, in square number fifty-five, lying and being within the said city, became chargeable as the property and in the name of the Washington Tontine Company with the following taxes, that is to say, for the years 1836 and 1837, the sum of twenty-three dollars and two cents; and whereas the property before described, having become liable to be sold under the act in years above quoted, Andrew Rothwell, the collector in whose hands the said taxes were placed for collection, failing to collect them in any other way, after having previously given public notice for the sale, by advertisement thereof twelve successive weeks next before the day of sale in the National Intelligencer, a newspaper printed in the city of Washington, therein describing as above the said property, to whom assessed, at the time of such advertisment, the said amount of taxes due, and the years for which the same were due, did offer for sale, at public auction, on the eighth day of December, eighteen hundred and thirty-eight, all of said lots, to pay *to pay* the taxes aforesaid and the expenses attending the sale, when the said Joseph N. Fearson, being the highest bidder, became the purchaser thereof for the sum of three hundred and thirty-six dollars, and then paid to the said collector the taxes aforesaid, and the expenses of said sale, amounting to thirty-three dollars and ninety cents; and more than two years having elapsed since the day of said sale, and the said property not having been redeemed, as by law provided, the said party of the second part has paid the residue of the purchase money, and interest thereon, into the city treasury, amounting to three hundred and fifteen dollars and fifty-cents, and has become entitled to a conveyance thereof. Now, therefore, this indenture witnesseth, that the said Mayor, Board of Aldermen, and Board of Common Council, parties of the first part, in consideration of the premises, and of the sum of one dollar, current money, to them in hand paid by the said party of the second part, at or before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, have granted, bargained, and sold, and by these presents do grant, bargain, and sell, unto the said party of the second [part] his heirs and assigns, forever, all the said hereinbefore described lots No. 5, 6, and 28, in square 28; lots 2, 10, 14 and 15, in sq. 31; lot 6, in sq. 37; lot 1, in sq. 42; lot 8, in sq. 44, and lot two, in sq. 55, with the appurtenances; to have and to hold the said premises with the appurtenances, unto the said party of the second part, his heirs and assigns, forever, to his and their use.

In testimony whereof, the Mayor of the said city hath hereunto set his hand, and caused the seal of the said corporation to be affixed, on the day and year first above written. [SEAL.]

Attest:

W. W. SEATON, *Mayor*.
C. H. WILTBERGER, *Reg*.